

**SAINT REGIS MOHAWK TRIBE
TRIBAL GOVERNANCE ORDINANCE**

SECTION I. TITLE

This act shall be known as the Saint Regis Mohawk “Tribal Governance [Open Government?] Ordinance”.

SECTION II. PURPOSE

This Ordinance outlines the referendum power of the Tribal membership, establishes a new structure of the Saint Regis Mohawk Tribal Council, defines the powers of the Council, provides a process for the recall and removal of Council members, creates a process by which the Tribal Council will conduct regular and special meetings, establishes procedures for passage of tribal ordinances and resolutions and provides a process for financial accountability for the Council.

SECTION III. DEFINITIONS

1. “Election and Referendum Ordinance” means that tribal ordinance adopted and approved by the Tribal Council governing election and referendum procedures.
2. “Ethics Ordinance” means the Ordinance approved by tribal referendum in June 2007.
3. “Enrolled member(s)” means a person who is duly enrolled as a member of the Saint Regis Mohawk Tribe in accordance with tribal membership laws.
4. “Serious Crime” means a felony or misdemeanor, not involving an act of civil disobedience, which involves an act of moral turpitude. Crimes of moral turpitude are crimes involving dishonesty such as larceny, fraud or murder, for example.
5. “Reasonable notice” as used in this Ordinance for purposes of notifying tribal members of meetings mean the type of notice under the circumstances that will adequately apprise members of the date, time and place of the meeting.
6. “Registered voters” means those enrolled tribal members who are not only eligible voters but in addition whose names are included in the list of persons certified by the Tribe to vote in a tribal election. [We need to find out from Election Committee how they establish list of “registered voters”.]
7. “Saint Regis Mohawk Tribe” or “Tribe” means the federally recognized American Indian Tribe known as the Saint Regis Mohawk Tribe with government offices in Akwesasne, New York.

8. "Staggered term" shall mean the system approved by tribal referendum in April 2004 whereby elections are held each year in June to fill two (2) of the six (6) elected officer positions.
9. "Tribal business enterprises" means all wholly owned entities established by the Tribe, including, but not limited to, Section 17 chartered corporations, limited liability companies and corporations.
10. "Tribal Council" shall refer to the three (3) Chiefs and three (3) Sub Chiefs elected at large by popular vote of the registered voters of the Tribe and does not include the Tribal Clerk whose duties and responsibilities are established and set forth by separate Tribal Council Resolutions and Ordinances.
11. "Tribal Governance Committee" means a voluntary committee that is appointed by the Tribal Council.
12. "United States portion of the St. Regis Mohawk Reservation" means the lands reserved to the Tribe under the Treaty with the Seven Nations of 1796: the six mile square reservation, the one mile square on the Grasse River and the meadows on both sides of the Grasse River.

SECTION IV. MEMBERSHIP REFERENDUM POWERS

A. Authority to Enact and Amend Laws

1. Tribal members shall have power to enact new laws and amend existing laws by referendum.
2. The Tribal member must obtain the valid signatures of thirty percent (30%) of the registered voters of the Tribe on a petition to have the proposed new law or amendment placed on the ballot for referendum vote.
3. The referendum will be validly approved by a simple majority vote provided that at least thirty percent (30%) of the registered voters of the Tribe participate and cast ballots in the election.

B. Authority to Reject Laws and Pose Questions

1. Tribal members shall have power to reject laws enacted by the Tribal Council and to propose referendum questions in a referendum.
2. The Tribal member must obtain the valid signatures of twenty-five percent (25%) of the registered voters of the Tribe on a petition to have the Tribal Council law or question placed on the ballot for referendum vote.

3. The referendum will be validly approved by a simple majority vote provided that at least twenty-five percent (25%) of the registered voters of the Tribe participate and cast ballots in the election.

C. Fundamental Issues of Importance Reserved to Referendum Process

1. The following fundamental issues may not be approved by the Tribal Council through a resolution or ordinance and shall only be approved through the referendum process set forth above:
 - a) changes to the membership qualifications of the Tribe;
 - b) cession by the Tribe of reservation lands
 - c) cession by the Tribe of criminal and civil jurisdiction;
 - d) changes in the basic governmental structure of the Tribe.
2. The Tribal Council may, in its discretion, present any issue to the membership for referendum vote.

SECTION V. STRUCTURE OF TRIBAL COUNCIL

A. Composition

1. The Tribal Council of the Saint Regis Mohawk Tribe shall be composed of three (3) Chiefs and three (3) Sub Chiefs elected at large by popular vote of the registered voters of the Tribe.
2. Each year one (1) Chief and one (1) Sub Chief will be elected to the Tribal Council under a staggered term basis.

B. Term of Office and Qualifications

1. Chiefs and Sub Chiefs will be elected to three (3) year terms of office.
2. Eligibility to run for Tribal Council shall be determined by the Tribal Election Ordinance.

SECTION VI. REMOVAL AND RECALL

A. Removal of Council Members

1. A Chief or Sub Chief shall automatically forfeit his or her office if convicted by any court of competent jurisdiction of a Serious Crime as defined by this Ordinance.

B. Recall of Council Members

1. Tribal Member Petition. The registered voters of the Tribe shall have the right to recall any elected official by filing a petition signed by at least thirty percent (30%) of the registered voters of the Tribe.
 - a. Recall elections shall be managed according the Tribal Election and Referendum Ordinance.
 - b. No elected official may be recalled unless a majority of the registered voters vote in favor of the recall in an election where at least thirty percent (30%) of the registered voters vote in the recall election.
 - c. No elected official shall face a recall election under this section more than once during a term of office.
 - d. An elected official who is lawfully subject to a recall shall be entitled to at least two (2) public opportunities to defend his or her action prior to the election.
2. Ethics Ordinance. Elected officials may also be recalled pursuant to the provisions of the Tribal Ethics Ordinance.

SECTION VII. POWERS OF THE TRIBAL COUNCIL

A. In General

The Tribal Council shall promote and protect the health, safety, education and general welfare of the Saint Regis Mohawk Tribe and its members. The three (3) Chiefs shall have the authority to enact tribal resolutions, laws and ordinances—except for that authority reserved to the tribal membership under Section IV, herein. The Tribal Council shall have administrative powers which shall include but are not limited to: negotiation with other governmental entities; chartering organizations; establishing education, housing, economic and social welfare programs; employing legal counsel; regulating tribal businesses; and regulating and disposing of lands.

B. Duties of Sub-Chiefs - TBD

C. Judicial Power Delegated to Judicial Branch

The Judiciary of the Tribe is independent from the Tribal Council and the Tribal Council's authority and role is limited to providing funding and other related functions.

SECTION VIII. REGULAR COUNCIL MEETINGS

A. Regular Tribal Council Meetings

1. The Tribal Council shall designate a period of time to hold Regular Meetings to act upon resolutions, ordinances and conduct other official business of the Tribe. These meeting will be held at least every other week (bi-weekly) or more frequently at the Council's discretion where the need arises.
2. The Regular Meetings may be held in the Tribal community building or other location the Tribal Council deems appropriate and will be open to all enrolled members.
3. The Tribal Council shall provide reasonable notice of Tribal Council agenda items to enrolled tribal members.
4. For the Tribal Council to take any official action in the Regular Meeting there must be a quorum of at least two (2) out of three (3) Chiefs present and voting.
5. The Tribal Council may take official action on emergency matters outside of regular meetings, however; any action taken at such emergency meetings must be presented at the next Regular Meeting and must be publicly recorded.

SECTION IX. MONTHLY TRIBAL MEETINGS

A. Monthly Tribal Meetings

1. Monthly Meetings of the general membership of the Tribe will be held on the first Saturday of every month except that the Tribal Council may, in its discretion, decide not to hold a Monthly Meeting when tribal elections and caucuses are scheduled.
2. The Tribal Council will report to the membership on resolutions and ordinances that it enacted and adopted since the previous Monthly Meeting and on all other official business of the Tribe including tribal business enterprises.

SECTION X. TRIBAL COUNCIL RESOLUTIONS AND ORDINANCES

A. Tribal Council Resolutions

1. All decisions of the Tribal Council on matters of a temporary nature where a formal expression is needed shall be embodied in a Resolution.
2. A Resolution may be proposed by any member of the Tribal Council, any Tribal program or department or any enrolled member.

3. The format of the proposed resolution shall follow the conventional format currently in use and shall include “whereas” clauses that provide history, background, authority, and justification, and shall also include “resolved” clauses that shall clearly state the action or position the Tribal Council is requested to take.
4. A resolution shall be presented to Tribal Council in a Regular Meeting and shall be adopted when at least two out of three Chiefs vote to accept it.

B. Tribal Council Ordinances

1. All decisions on matters of permanent nature, except as reserved to membership in Section VII, C shall be embodied in Tribal Council Ordinances.
2. An Ordinance may be proposed by any member of the Tribal Council, any Tribal program or department or any enrolled member.
3. The format of proposed ordinances, and the review process, including provisions for review and comments by Tribal Members shall be set forth in procedures to be established the Tribal Council.
4. Ordinances shall be presented to the Tribal Council in its Regular Meetings and shall be adopted when at least two (2) out of three (3) Chiefs vote to adopt the proposed ordinance, sign the ordinance in duplicate original and have their signatures certified by the Tribal Clerk.

SECTION XI. FINANCIAL ACCOUNTABILITY

A. Special Tribal Council Meetings Required To Approve Tribal Budget

1. The Tribal Council shall hold at least two (2) Special meetings each year for the purpose of presenting and explaining to the Membership the Tribe’s Preliminary Annual Budget.
2. One meeting shall be held on or about December 15 each year and at this Special Meeting the Tribal Council shall present the Tribe’s Preliminary Budget for the up-coming Fiscal Year for Tribal Council approval.
3. A second meeting shall be held on or about August 15 each year and at this Special Meeting the Council [OR Chiefs] shall present a mid-year report on the Approved Tribal Budget to show revenues and expenditures to that date.
4. Notice of the Special Meetings and a copy (or summary) of the Tribe’s preliminary annual budget shall be given the membership at least ten (10) days prior to the Special Meeting;.
5. Any enrolled Tribal member shall be entitled to attend the meeting.

6. The meeting shall be held at the Tribal Community Building.

B. Approval of Budget/Modifications

1. The Tribe's Preliminary Annual Budget shall be presented at the December Special Meeting to the Tribal Council.
2. All comments and recommendations made at that December meeting will be noted and there will be a ten (10) day comment period within which any enrolled member may comment on the Preliminary Budget.
3. On or about January 1, the Preliminary Budget, with any recommended changes that are adopted, shall be presented again to the Tribal Council for final approval.
4. The Tribe's expenditures for the up-coming fiscal year shall be limited to the approved Annual Budget subject to the following:
 - a. Budget modifications by Tribal Departments will be permitted within limits established by the Tribe's Finance Department and will be reported at the August Special meeting.
 - b. Any expenditure or requested Budget modification that exceeds the amount of \$100,000 by the Tribe in the fiscal year must be presented in a properly noticed Special Tribal Council meeting for approval.

SECTION XII. AMENDMENT PROVISION

This Act may be amended by a duly conducted referendum vote of membership or by a recommendation of the Tribal Governance that is submitted and approved in a referendum election.

SECTION XIII SEVERABILITY CLAUSE

The provisions of this act are severable and if any part or provision shall be held void by any court of competent jurisdiction under applicable Tribal and or Federal Law, the decision of the court so holding shall not affect or impair any of the remaining parts or provisions of this act.